

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FIDELITY MANAGEMENT TRUST  
COMPANY, as Collateral Agent for Mellon  
Bank, N.A., as Trustee of Bell Atlantic  
Master Trust with Respect to Account C,  
Plaintiff,

v.

RICCARDO OLIVIERI, an individual,  
Defendant.

Civil Action No. 04-cv-11873

**ASSENTED TO MOTION FOR ENLARGEMENT  
OF TIME TO RESPOND TO PLAINTIFF'S COMPLAINT**

Pursuant to Fed. R. Civ. P. 6(b), and with the agreement of counsel for Plaintiff Fidelity Management Trust Co. ("Fidelity"), the defendant, Riccardo Olivieri, hereby moves for an enlargement of time to respond to Fidelity's Complaint through September 24, 2004. In support of this motion, the defendant states:

1. On July 15, 2004, Fidelity commenced an action against Mr. Olivieri, in the Suffolk Superior Court, Business Litigation Session, entitled Fidelity Management Trust Company v. Riccardo Olivieri, and numbered CA No. 04-3161.

2. On August 2, 2004, Mr. Olivieri received a copy of the Complaint in the mail.

3. In the State Court Action, Fidelity seeks to enforce a guaranty against Mr. Olivieri that he purportedly executed in favor of Fidelity (the "Guaranty") for the purpose of obtaining a loan for an entity owned or controlled indirectly by him called Florida Development Associates, Ltd. The underlying debt on this Guaranty is already the subject matter of an adversary

proceeding presently pending in the bankruptcy court in the United States Bankruptcy Court for the Southern District of Florida, Case No. 04-12033-BKC-AJC.

4. Both because there is diversity of citizenship between the parties in a matter involving over \$75,000 and because the State Court Action is related to the pending bankruptcy action in the United States Bankruptcy Court for the Southern District of Florida, Mr. Olivieri filed a Notice of Removal on August 27, 2004 to remove the State Court Action to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 and Federal Rule of Bankruptcy Procedure 9027.

5. Mr. Olivieri requests an extension of time to respond to Fidelity's complaint in order to allow his primary counsel sufficient time to assist the undersigned counsel in preparing a response. Mr. Olivieri's primary counsel, Ferrell Schultz Carter & Fertel, PA, is located in Miami, Florida and its offices have been closed for business on Thursday and Friday, September 2 and 3, 2004, in order to allow its members to prepare for Hurricane Frances, which is threatening to hit the South Florida area this weekend.

6. Counsel for Mr. Olivieri has been informed by Fidelity's counsel that Fidelity will file a motion to remand the removed State Court Action back to Suffolk Superior Court while Mr. Olivieri in turn plans to file a motion to transfer venue to the United States Bankruptcy Court for the Southern District of Florida where the related bankruptcy action is pending and the issues raised in Fidelity's Complaint are already the subject matter of the pending adversary proceeding. Should any of the contemplated motions be filed, the defendant may seek a further extension of time to respond to the complaint until after the motions are ruled upon.

7. Based upon the above considerations, counsel for Fidelity has assented to Mr. Olivieri's request for an enlargement of time to respond to the Complaint up through and including September 24, 2004.

8. This enlargement is sought in good faith and not for the purpose of delay. The relief requested herein will not prejudice any party, will not delay or have an adverse effect on this Court's administration of this case, and will likely facilitate the efficient administration of this case.

WHEREFORE, MR. OLIVIERI respectfully requests that this Court enter an order extending the time in which he must serve his response to Fidelity's Complaint to and including September 24, 2004.

RICCARDO OLIVIERI  
By his attorneys,

/s/ Kenneth J. DeMoura  
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ASSENTED TO:

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Counsel for Plaintiff